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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,709	07/02/2001	Nicholas D. Staikos		6461

7590 11/01/2002  
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EXAMINER

CUEVAS, PEDRO J

ART UNIT PAPER NUMBER

2834

DATE MAILED: 11/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/895,709

Applicant(s)

STAIKOS ET AL.

Examiner

Pedro J. Cuevas

Art Unit

2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 June 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 17 June 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Drawings***

1. The corrected or substitute drawings were received on June 17, 2002. These drawings are acceptable.
2. Color photographs and color drawings are acceptable only for examination purposes unless a petition filed under 37 CFR 1.84(a)(2) is granted permitting their use as acceptable drawings. In the event that applicant wishes to use the drawings currently on file as acceptable drawings, a petition must be filed for acceptance of the color photographs or color drawings as acceptable drawings. Any such petition must be accompanied by the appropriate fee set forth in 37 CFR 1.17(h), three sets of color drawings or color photographs, as appropriate, and an amendment to the first paragraph of the brief description of the drawings section of the specification which states:

The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the U.S. Patent and Trademark Office upon request and payment of the necessary fee.

Color photographs will be accepted if the conditions for accepting color drawings have been satisfied.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,186,314 to Diggs.

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Diggs clearly teaches the construction of a linear motion wind-driven power generator comprising a plurality of sails (24) pivotally supported on two sprocket-type endless chains (18), each of said chains and said sails rotating about sets of sprocket wheels (20) spatially disposed at different planes said sprocket wheels having their axles inclined at angles greater than zero degrees from the direction of the wind.

5. With regards to claim 2, Diggs discloses a linear motion wind-driven power generator wherein the axle (60) of at least one of said sprocket wheels (56) is mechanically connected to the rotor of an electrical power generating motor as shown in Figure 2.

6. With regards to claim 3, Diggs discloses a linear motion wind-driven power generator wherein each of said chains is engaged to and rotates about a set of two sprocket wheels, each set of said sprocket wheels being spatially disposed at different planes and having their axles inclined at angles greater than zero degrees from the direction of the wind as shown in Figure 2.

7. With regards to claim 6, Diggs discloses a linear motion wind-driven power generator wherein the motion of the sprocket chains/sails assembly is substantially in a vertical direction as shown in Figures 1 & 2.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,186,314 to Diggs in view of U.S. Patent No. 6,072,245 to Ockels.

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Diggs discloses the construction of a linear motion wind-driven power generator as described above.

However, it fails to disclose a linear motion wind-driven power generator wherein each of said sprocket-type chains is engaged to and rotates about a set of four sprocket wheels.

Ockels teaches the construction of a linear motion wind-driven power generator wherein each of said sprocket-type chains is engaged to and rotates about a set of four wheels (4) (only 2 shown, the other two inherent to complete a full rotation), each set of said wheels being spatially disposed at two different planes for the purpose of providing the vortices of a ascending and descending path of a pulling cable (1A + 1B) of a wind-driven driving apparatus employing kites.

It would have been obvious to one skilled in the art at the time the invention was made to use the wheel arrangement of the wind-driven driving apparatus disclosed by Ockels on the linear motion wind-driven power generator disclosed by Diggs for the purpose of providing the vortices of a ascending and descending path of a pulling cable (1A + 1B) of a wind-driven driving apparatus employing kites.

10. Claims 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,186,314 to Diggs in view of common knowledge in the art.

Diggs discloses the claimed invention except for:

the motion of the sprocket chains/sails assembly is substantially in a horizontal direction; and

the power generator is supported on a horizontal shaft located at an elevation greater than the elevation of the center of said linear motion generator.

It would have been an obvious matter of design choice to construct a linear motion wind-driven power generator wherein:

the motion of the sprocket chains/sails assembly is substantially in a horizontal direction; and

the power generator is supported on a horizontal shaft located at an elevation greater than the elevation of the center of said linear motion generator; since the applicant has not disclosed that the orientation of the chains/sails assembly and the elevation of the power generator solves any stated problem or is for any particular purpose and it appears that the invention would perform equally having the chains/sails assembly in any orientation and the power generator at any elevation.

***Response to Arguments***

11. Applicant's arguments filed June 17, 2002 have been fully considered but they are not persuasive.
12. In response to applicant's argument that the present invention represents a substantial improvement over the prior art, it must be noted that improvements over old inventions need to be claimed as such.
13. In response to applicant's argument that the sprocket wheels and the axis of Diggs are not inclined at angles greater than zero from the direction of the wind, there is no disclosure in the claims about any structure on the invention that will effectively control the direction of the wind.
14. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the direction of the wind) are not recited in the rejected claim(s). Although the claims are interpreted in light

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of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

15. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

16. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

### ***Conclusion***

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

18. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pedro J. Cuevas whose telephone number is (703) 308-4904. The examiner can normally be reached on M-F from 8:30 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Néstor R. Ramírez can be reached on (703) 308-1371. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-1341 for regular communications and (703) 305-3432 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Pedro J. Cuevas  
October 29, 2002



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OCTOBER 29, 2002